



Implementing a 'Duty of Candour'; a new contractual requirement on providers.

Royal Pharmaceutical Society Response

The Royal Pharmaceutical Society (RPS) is the new professional body for every pharmacist in Great Britain. We are the only body that represents all sectors of pharmacy in Great Britain.

The RPS leads and supports the development of the pharmacy profession within the context of the public benefit. This includes the advancement of science, practice, education and knowledge in pharmacy. In addition, it promotes the profession's policies and views to a range of external stakeholders in a number of different forums.

Its functions and services include:

Leadership, representation and advocacy: promoting the status of the pharmacy profession and ensuring that pharmacy's voice is heard by governments, the media and the public.

Professional development, education and support: helping pharmacists to advance their careers through professional advancement, career advice and guidance on good practice.

Professional networking and publications: creating a series of communication channels to enable pharmacists to discuss areas of common interest.

General comments

The duty of candour outlined in this consultation will improve patient care and safety. The Royal Pharmaceutical Society strongly supports this aim but has some concerns arising from the method of its introduction.

1. Community pharmacy operates in an open and highly competitive market where patients can immediately move to another pharmacy for the provision of their medicines and pharmaceutical support. This incentivises the pharmacy profession to deliver care within the principles outlined in this consultation. Adding unnecessary burdens could jeopardise this market which delivers the benefits of quality, access, choice and value for money for patients and the NHS.
2. The RPS is concerned that the introduction of a duty of candour without a change in the current legislation relating to dispensing errors, means pharmacists are open to prosecution under criminal law if they wrongfully dispense a medicine, even if it is a genuine error and without malicious intent. Therefore, this does not encourage pharmacists to be open and transparent with patients about such errors. The RPS is currently proposing an amendment to the Health and Social Care Bill to prevent this

situation in the future. We would urge DH to accelerate the work to decriminalise dispensing errors as this would remove a significant barrier to the implementation of candour amongst the pharmacy profession.

3. A duty of candour has been referred to in the NHS Operating Framework for 2012/13 and yet a mechanism for implementation has not yet been defined. The RPS believes it will be impractical to attempt an introduction at such short notice, given that there may be contractual implications. Implementation of this duty may require employers to make changes to their procedures and processes so a period of time is required between the requirement being made and implementation in practice.
4. This consultation also encourages GPs, in particular, to report where they believe that patients have not been treated in the right manner.

The Royal Pharmaceutical Society is committed to working with all stakeholders to improve the existing culture for raising concerns and working towards creating a “just” and constructive reporting environment for employees and temporary staff. At one time or another, pharmacists may come across a concern that affects their patients, colleagues, employers or the wider public. We believe it’s essential that all pharmacists are able to raise concerns about such issues early and effectively, as it’s in everyone’s interests that suspected malpractice or wrongdoing is dealt with properly and before it’s too late.

The document refers to a duty of candour process being implemented only in cases where there has been serious harm or death caused to a patient. The RPS believes this must be opened up to cases where serious harm or death has been avoided – a ‘near miss’. Under the proposed process, potential for serious harm or death may be identified by individual practitioners but nothing will be done about it until a patient suffers. In this way candour will be joined up with a learning culture and not treat cases of serious harm or death differently from a ‘near miss’.

5. The reporting process must also include an obligation on the person who receives reports to initiate a review of operating processes and to implement changes required to address any further risk to patients.
6. The process of reporting error must be engendered by a culture of learning, where other peoples’ mistakes can be avoided by communicating with all relevant stakeholders. The RPS believes that communication with patients is important, however, the real benefits to patients accrue from the ability to learn from mistakes.
7. The RPS believes the introduction of a duty of candour will lead to an increase in the number of patients seeking legal redress, even if this is just in an initial period, until there is a clearer understanding by patients of what a declaration of error and apology mean. Therefore, there would need to be an information piece to the public prior to implementation to allow the duty of candour to bed in.

Conclusion

Patient safety is the prime concern of the pharmacy profession and pharmacists are already measured against several standards set by the independent regulator, including patient safety (<http://www.pharmacyregulation.org/standards>). In fact the General Pharmaceutical Council Standards of Conduct, Ethics and Performance require registrants to 'make patients your first concern'. This consultation document provides examples of existing guidance already in place for other healthcare professions.

The RPS, agrees in principle, with a duty of candour for all healthcare professionals in order to enhance patient safety. However, we believe implementation should be via professional guidance and standards rather than a contractual requirement. If the route of a contractual requirement is followed this will be extremely difficult to monitor, assess and could become a bureaucratic burden on the NHS. When considering the commissioning of any qualified provider in the future, we would suggest that the provider must include a relevant regulated professional as part of any tender or service level agreement, in order to ensure that the duty of candour is a part of the commissioned service

We would be happy to participate in discussions with the Department of Health or the NHS Commissioning Board to identify how our existing systems already align with the duty of candour and if necessary, issuing further guidance on our profession to ensure this happens.



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For further information or any queries you may have on our consultation response please contact Heidi Wright at heidi.wright@rpharms.com or 0207 572 2602.